

The Honorable Richard A. Jones

United States District Court  
for the Western District of Washington

**CASE NO. 2:20-CV-00372-RAJ-BAT**

**EN BANC HEARING REQUESTED**  
**ORAL ARGUMENT REQUESTED**

**PLAINTIFFS' OBJECTION TO JUDGE TSUCHIDA'S REPORT**

**I. The Parties to this complaint:**

Plaintiff: Gabriella Kertesz pro se and all other similarly situated citizens

Defendant: Bob Ferguson  
Attorney General of Washington State  
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**II. Objection to judge Tsuchida's report**

Judge Tsuchida summarizes his report under the following headings:

- A. Plaintiff's Lack of Standing to Bring Suit on Behalf of Others
- B. Article III Standing – Lack of Federal Court Jurisdiction
- C. A State Official Acting in His or Her Official Capacity is Not A "Person" Under 42 U.S.C. § 1983

#### D. Fourteenth Amendment Equal Protection

The arguments under A, B and C lack any standing, as they do not address the substantive truth of Ms. Kertesz's claim. The sole purpose of such arguments appears to be the creation of an air of legitimacy for an unlawful dismissal.

The arguments presented under subheading D have been rebutted by Ms. Kertesz' original complaint.

Judge Tsuchida described the *special circumstances* under which RCW 7.70.060 is mobilized as a "statutory scheme":

*"Chapter 7.70 RCW relates to private causes of action against health care providers for injuries resulting from health care, including breach of the duty to secure informed consent regarding treatment. RCW 7.70.010. This **statutory scheme** establishes the burden of proof in medical malpractice cases as well as procedures for litigating these claims. Pursuant to this statute and as relevant to Plaintiff's allegations here, if a patient's representative signs a consent form, the consent form constitutes prima facie evidence that the patient gave her informed consent to the treatment administered and the patient then has the burden of rebutting this by a preponderance of the evidence."*

Washington state enacted a law with the purported intention to protect patients by empowering them with information, so they can make informed decisions in their own care (Exhibit 2).

Our state government proceeded to manipulate the use of this law through a "statutory scheme" for the **sole protection of the healthcare sector** in malpractice lawsuits. In essence, the violators of the law were granted (by our own state government) exclusive courtroom access to RCW 7.70.060. When the law is called upon by violators, automatic acquittal is guaranteed to them for informed consent violations.

The consequences of such "statutory scheming" are disastrous for the welfare of the public. Ms. Kertesz's complaint exposed the inner workings of this "scheming".

Laws are created equal and may not be manipulated by such statutory schemes. Laws object to being summoned only in courtrooms for the protection of their own

lawbreakers. RCW 7.70.060 is meant to protect patients from the substandard care of a profit driven healthcare sector.

There is an inner logic and reason built into the workings of all laws. That logic and reason forbids “statutory scheming” and deems such activity wholly unlawful.

What in God’s name is being done to our laws?

### III. Conclusion

Ordinary people are powerless to influence our lawmakers to write protective laws for them. Ms. Kertesz gave up on our Legislature and turned to the law for help. She knew that a law for informed consent must exist in this world, as she had believed with her whole heart in this fundamental right. Her stubborn belief in the law was rewarded when she realized the untapped power of RCW 7.70.060.

Ms. Kertesz has exposed a violation that should have set off all the alarm bells of a functioning judicial system. Ms. Kertesz prays to God that our judges understand the law. That is her only hope.

The 2007 amendment **inadvertently created a powerful law for patients**, as the *amended law* **legally bound** the healthcare sector to provide consent forms for all transactions or else be in violation of the law. RCW 7.70.060 cannot be undone or left the way it is. Our judiciary must take action to remedy the violation.

Hereby let this be on record that Ms. Kertesz wholeheartedly rejects judge Tsuchida’s report and his recommendation to dismiss her case. She reserves her right for an appeal..

### IV. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support

after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5/18/2020

Signature of Plaintiff: s/ Gabriella Kertesz

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